THE BOMBAY MERGED TERRITORIES (JANJIRA AND BHOR) KHOTI TENURE ABOLITION ACT, 1953.

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SCHEDULE.

BOMBAY ACT No. LXXI OF 1953.[1]

[THE BOMBAY MERGED TERRITORIES (JANJIRA AND BHOR) KHOTI TENURE ABOLITION ACT, 1953.]

[*28th December 1953*]

Amended by Bom. 51 of 1955

An Act to abolish khoti tenure prevailing in the merged territories of the former States of Janjira and Bhor.

WHEREAS it is expedient to abolish the khoti tenure prevailing in the merged territories of the former States of Janjira and Bhor and to provide for certain consequential and incidental matters hereinafter appearing; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Merged Territories (Janjira and Bhor) Khoti Tenure Abolition Act, 1953.

(*2*) It extends to the merged territories of the former State of Janjira (hereinafter referred to as the merged territories of Janjira) and to the merged territories of the former State of Bhor (hereinafter referred to as the merged territories of Bhor) included in the district of Kolaba.

(*3*) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint in this behalf.

Definitions

2. (*1*) In this Act, unless there is anything repugnant in the subject or context—

(*i*) "Code" means the Bombay Land Revenue Code, 1879;

Bom. V of 1879.

(*ii*) "Collector" includes an officer appointed by the State Government to perform the functions and exercise the powers of the Collector under this Act;

(*iii*) "dhara land" means land held by a dharekari in a khoti village;

(*iv*) "dharekari" means a person who holds dhara land on dhara tenure;

(*v*) "khot" means the holder of a khoti village on khoti tenure and includes—

(*a*) a mortgagee lawfully in possession of a khotki and

(*b*) all co-sharers in a khotki;

(*vi*) "khotki" means the aggregate of the rights and interests vested in a khot as such;

(*vii*) "khoti fayda" means the amounts of grain or money payable as khoti fayda to a khot in the merged territories of Bhor by an occupancy tenant of a khoti nisbat land;

(*viii*) "khoti khasgi land" means in relation to the merged territories of Bhor, land entered in the khot's own name as khoti khasgi in the records of the original survey and settlement;

(*ix*) "khoti land" means in relation to the merged territories of Janjira, land entered in the village records as khoti and held as such by a khot;

(*x*) "khoti nisbat land" means in relation to the merged territories of Bhor, land entered as khoti nisbat in the records of the original survey and settlement;

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1953, Part V, page 445.

(*xi*) "khoti tenure" means—

(*a*) in relation to the merged territories of Janjira, the tenure known as—
(1) Farokta Isafati Khoti,
(2) Watani Isafati Khoti,
(3) Vasuli Isafati Khoti, or
(4) Tota Isafati Khoti,

on which a khoti village is held by a khot by virtue of a sanad granted by the ruling authority of that State at any time before the merger and subject to the terms of such sanad in accordance with the provisions of the Khoti Settlement Act, 1880, as applied to the State of Janjira; and Bom. I of 1880.

(*b*) in relation to the merged territories of Bhor, Watani Khoti tenure on which a khoti village is held in accordance with the provisions of the Khoti Settlement Act, 1880, as applied to the State of Bhor; Bom. I of 1880.

(*xii*) "khoti village" means a village specified in the Schedule;

(*xiii*) "khot's dues" means—

(*a*) khot's profit out of the rent paid to a khot by an occupancy tenant of khoti land in the merged territories of Janjira in accordance with the term of the sanad granted to the khot, and

(*b*) the khoti fayda paid to a khot by an occupancy tenant of khoti nisbat land in the merged territories of Bhor,

exclusive of the land revenue payable by the khot to the Government for the time being and the cess, if any, leviable under the Bombay Local Boards Act, 1923, in respect of such land; Bom VI of 1923.

(*xiv*) "merger" means in relation to a former Indian State the cession by the Ruler of such State of full and exclusive jurisdiction and powers for, and in relation to, the governance of such State and the transfer of administration of such State to the State of Bombay under section 290-A of the Government of India Act, 1935; 26 Geo. 5 Ch. 2.

(*xv*) "occupancy tenant" means—

(*a*) in relation to the merged territories of Janjira, a holder of a khoti land who has permanent tenancy right in such land and who has been shown as *Juney Kul* (old tenant) in the Record of Rights;

(*b*) in relation to the merged territories of Bhor, a holder of khoti nisbat land and who has been shown as *Juney Kul* (old tenant) in the village record;

(*xvi*) "prescribed" means prescribed by rules made under this Act;

(*xvii*) "Sarkari land" means in relation to the merged territories of Janjira—

(*a*) land shown in the Record of Rights as Government land and entered in the name of the khot as Vahiwatdar; and

(*b*) land originally held as khoti nisbat land but subsequently resumed and granted to a co-sharer of a khot for vahiwat by the former Government of Janjira; and

(*c*) land known as Samlatpad or Sabandhapad which has been assessed waste and in respect of which the khot pays assessment to Government;

(*xviii*) "Schedule" means the Schedule appended to this Act.

(*2*) Any word or expression which is defined in the Code and not defined in this Act shall be deemed to have the meaning given to it by the Code.

Bom. I of 1880.

(*3*) References in this Act to the provisions of the Khoti Settlement Act, 1880, as applied to the State of Janjira and as applied to the State of Bhor and to the grants of khoti villages and the incidents of the khoti tenure shall, notwithstanding the repeal of the said Act, the cancellation of the said grants and the abolition of the said tenure by this Act, be construed as references to the said provisions, grants and incidents as they were in force immediately before this Act comes into force.

(*4*) If any question arises about the tenure on which a khoti village is held, the nature of any land in a khoti village or whether a tenant is an occupancy tenant, the State Government shall, having regard to the relevant entries in the revenue records and after holding such enquiry as may be deemed fit, decide the question and such decision shall be final:

Provided that the State Government may authorise any officer to decide any such question and subject to an appeal to the State Government his decision shall be final.

Abolition of khoti tenure.

3. With effect from and on the date on which this Act comes into force,—

(*1*) the khoti tenure shall, wherever it prevails in the merged territories of Janjira and Bhor included in the district of Kolaba, be deemed to have been abolished; and

(*2*) save as expressly provided by this Act all sanads granted in respect of a khoti village in the merged territories of Janjira shall be deemed to have been cancelled, and all the incidents of the said tenure shall be deemed to have been extinguished, notwithstanding any law, custom or usage or anything contained in any sanad, grant, kabulayat, lease, decree or order of any court or any other instrument.

Who shall be occupants in merged territories of Janjira.

4. In the merged territories of Janjira—

(*1*) in the case of khoti land in a khoti village held on Farokta Isafati or Watani Isafati Khoti tenure—

(*i*) where such land is in the possession of the khot, the khot, and

(*ii*) where such land is in the possession of an occupancy tenant, such occupancy tenant,

(*2*) in the case of khoti land in a khoti village held on Vasuli Isafati or Tota Isafati Khoti tenure—

(*i*) where such land has been acquired by the khot on payment of occupancy price in accordance with the law for the time being in force before the merger, such khot,

(*ii*) where such land is not so acquired,—

(*a*) the tenant in possession of such land, and

(*b*) if there be no tenant in possession of such land, the khot,

(*3*) in the case of Sarkari land—

(*i*) the tenant in possession of such land, and

(*ii*) if there be no tenant in possession of such land, the khot or the co-sharer, as the case may be, and

(*4*) in the case of a dhara land, the dharekari,

shall be primarily liable to the State Government for the payment of land revenue due in respect of such land held by him and shall be entitled to all the rights and shall be liable to all the obligations in respect of such land as an occupant under the Code or any other law for the time being in force :

Provided that—

(*i*) in the case of khoti land in a khoti village held on Vasuli Isafati or Tota Isafati Khoti Tenure, where such land has not been acquired by the khot on payment of occupancy price in accordance with the law for the time being in force before the merger, and

(*ii*) in the case of Sarkari land,

the khot, co-sharer or tenant, as the case may be, who may be liable to the State Government for the payment of land revenue under this section in respect of such land, shall be entitled to the rights of an occupant in respect of such land on payment to the State Government in the prescribed manner and within the prescribed period occupancy price equivalent to six multiples of the survey assessment fixed on the land.

Who shall be occupants in merged territories of Bhor.

5. In the merged territories of Bhor—

(*1*) in the case of a khoti khasgi land, the khot, and

(*2*) in the case of khoti nisbat land—

(*i*) where such land is in the possession of an occupancy tenant, such occupancy tenant, and

(*ii*) if there be no occupancy tenant in possession of such land, the khot, and

(*3*) in the case of a dhara land, the dharekari,

shall be primarily liable to the State Government for the payment of land revenue due in respect of such land held by him and shall be entitled to all the rights and shall be liable to all the obligations in respect of such land as an occupant under the Code or any other law for the time being in force.

Certain tenants to be occupants.

6. Notwithstanding anything contained in sections 4 and 5, where a khoti land or khoti khasgi land is in the possession of a person (other than an occupancy tenant) holding under a khot on payment to the khot of rent equal to the amount of assessment fixed for such land, such person shall be entitled to the rights of an occupant in respect of such land on payment to the khot in the prescribed manner occupancy price equivalent to three multiples of the assessment fixed for such land :

Provided that the right conferred by this section shall not be exercisable after a period of [1][five years] from the date on which this Act comes into force.

Liability to pay khot's dues and rights of khot extinguished.

7. (*1*) With effect from the date on which this Act comes into force, the land in respect of which any person is entitled to the rights of an occupant under section 4 or 5, as the case may be, shall be free from the liability for the payment of khot's dues in respect thereof and all rights of a khot in his capacity as a khot in such land shall be deemed to have been extinguished.

[1] These words were substituted for the words " two years " by Bom. 51 of 1955, s.3, Second Schedule.

(*2*) Nothing in sub-section (*1*) shall in any way affect the liability of any person to pay in respect of the land in his possession the amount of the khot's dues for the current year ending on the 31st day of July 1954 and the amount of the arrears of such dues for any previous year in respect of such land.

Commutation of khot's dues.

8. (*1*) An occupancy tenant shall be liable to pay in the prescribed manner and within the prescribed period the commuted value of the khot's dues which were payable by him immediately before the coming into force of this Act in respect of the land held by him. Such commuted value shall be estimated and paid in the manner specified in sub-sections (*2*) and (*3*).

(*2*) The Mamlatdar shall give notice in the prescribed manner to the persons referred to in sub-section (*1*) and the khot, and after holding a formal inquiry shall determine the amount of the commuted value of the khot's dues :

Provided that the amount of commuted value shall not exceed five times the amount of the khot's dues, if payable in cash or five times the value of such dues, if payable in kind, subject to the maximum of a sum equal to ten times the survey assessment of the land, or if the khot's dues are payable in crop-share, five times the commuted value of such dues reckoned in the manner provided for in sub-section (*3*).

(*3*) In estimating the commuted value of the khot's dues payable in crop-share, a third crop-share shall be held as equivalent to two multiples of survey assessment fixed on the land and any other crop-share as a proportional multiple of such assessment :

Provided that the commuted value of the produce payable on any warkas land actually used for the purpose of rab manure in connection with rice cultivation shall be held as equivalent to one survey assessment of such land.

Explanation.—The commuted value shall be deemed to include compensation for the extinguishment of any rights of a khot in relation to occupancy tenants under section 9 of the Khoti Settlement Act, 1880, as applied to the merged territories of Janjira and Bhor or any other provisions thereof.

Bom. I of 1880.

Occupancy price or commuted value recoverable as arrear of land revenue.

9. (*a*) The amount of the occupancy price payable under section 4, if not paid to the State Government ; and

(*b*) the amount of the commuted value payable under section 8, if not paid to the khot,

shall be recoverable as an arrear of land revenue. The amount recovered shall be credited to Government or paid to the khot, as the case may be.

Khot to hand over accounts, etc., to authorised officers.

10. (*1*) Whenever an officer authorised by the State Government in this behalf so directs, a khot shall deliver to him or such other officer as may be specified in the direction, accounts and other records relating to the khoti village kept by him under the law for the time being applicable to the village.

(*2*) If a khot fails without reasonable cause to deliver any such accounts or records he shall, on conviction, be punished with fine which may extend to Rs. 200. In the case of a continuing failure to deliver any such accounts or records, the khot shall be punished with an additional fine which may extend to Rs. 25 for every day during which such failure continues after conviction for the first such failure.

Uncultivated and waste lands and all property of nature specified in section 37 of Code vest in State Government.

11. For the removal of doubt, it is hereby declared that all uncultivated waste lands in a khoti village not appropriated by any khot and not entered into the revenue or survey records as khoti or khoti khasgi, before the date on which this Act comes into force, and all other kinds of property referred to in section 37 of the Code, situate in a khoti village, which are not the property of the individuals or of any aggregate of persons legally capable of holding property and except in so far as any rights of such persons may be established in or over the same and except as may be otherwise provided in any law for the time being in force, are together with all rights in or over the same or appertaining thereto, the property of the State Government and it shall be lawful to dispose of or set apart the same by the authority in the manner and for the purpose provided in section 37 or 38 of the Code, as the case may be.

Extinction of khot's right of reversion.

12. From the date on which this Act comes into force a khot shall not be entitled to acquire any right in any khoti land or khoti nisbat land by right of reversion.

Explanation.—For the purposes of this section, the right of reversion shall mean a right by which a khot was entitled to acquire lands held by an occupancy tenant under section 10 of the Khoti Settlement Act, 1880, as applied to the merged territories of Janjira and Bhor before merger. Bom. I of 1880.

Right to trees.

13. The rights to trees specially reserved under the Indian Forest Act, 1927, or any other law for the time being in force, except those the ownership of which has been transferred by the State Government under any contract, grant or law for the time being in force shall vest in the State Government and nothing in this Act shall in any way affect the right of the State Government to apply the provisions of the Indian Forest Act, 1927, as in force in the State to forests in a khoti village. XVI of 1927.

Method of compensation for extinguishment or modification of any rights and interests in land.

14. (*1*) If a khot or any other person is aggrieved by any of the provisions of this Act as extinguishing or modifying any of his rights to, or interests in, land and if such person proves that such extinguishment or modification amounts to transference to public ownership of any land or any right or interest in or over such land, such person may apply to the Collector for compensation. XVI of 1927.

(*2*) Such application shall be made in the form prescribed by rules made under this Act within six months from the date on which this Act comes into force.

(*3*) The Collector shall after holding a formal inquiry in the manner provided by the Code award such compensation as he deems reasonable and adequate :

Provided that—

(*a*) the amount of compensation for the extinguishment of the right of reversion in lands in a khoti village shall not exceed the amount calculated at the rate of Rs. 2 per 100 acres of such lands,

(*b*) the amount of compensation for the extinguishment of any right to appropriate any uncultivated and waste lands not appropriated by any khot and not entered in the revenue or survey records as khoti or khoti khasgi immediately before the 1st day of August 1953, shall not exceed the amount caloulated at the rate of Rs. 5 per 100 acres of such land :

Provided further that in the case of the extinguishment or modification of any other right of a khot or any right of any other person, the Collector shall be guided by the provisions of sub-section (*1*) of section 23 and section 24 of the Land Acquisition Act, 1894. I of 1894.

(*4*) Any person aggrieved by the award of the Collector may appeal to the Bombay Revenue Tribunal constituted under the Bombay Revenue Tribunal Act, 1939.

Bom. XII of 1939.

(*5*) In deciding appeals under sub-section (*4*), the Bombay Revenue Tribunal shall exercise all the powers which a Court has and follow the same procedure which a Court follows in deciding appeals from the decree or order of an original Court under the Code of Civil Procedure, 1908.

V of 1908.

(*6*) The award made by the Collector subject to an appeal to the Bombay Revenue Tribunal and the decision of the Bombay Revenue Tribunal on the appeal shall be final and conclusive and shall not be questioned in any suit or proceeding in any Court.

Limitation.

15. Every appeal made under this Act to the Bombay Revenue Tribunal shall be filed within a period of sixty days from the date of the award of the Collector. The provisions of sections 4, 5, 12 and 14 of the Indian Limitation Act, 1908, shall apply to the filing of such appeal.

IX of 1908.

Court-fees.

VII of 1870.

16. Notwithstanding anything contained in the Court-fees Act, 1870, every appeal made under this Act to the Bombay Revenue Tribunal shall bear a court-fee stamp of such value as may be prescribed.

Inquiries and proceedings to be judicial proceedings.

17. All inquiries and proceedings before the Collector and the Bombay Revenue Tribunal under this Act shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

XLV of 1860.

Amount of compensation to be payable in transferable bonds.

18. The amount of compensation payable under the provisions of this Act shall be payable in transferable bonds carrying interest at the rate of three per cent. per annum from the date of the issue of such bonds and shall be repayable during a period of twenty years from the date of the issue of such bonds by equated annual instalments of principal and interest. The bonds shall be of such denominations and shall be in such forms as may be prescribed.

Provisions of Bom. LXVII of 1948 to govern relations of khot and tenants.

19. Nothing in this Act shall in any way be deemed to affect the application of any of the provisions of the Bombay Tenancy and Agricultural Lands Act, 1948, to any lands in a khoti village or the mutual rights and obligations of a khot and his tenants, save in so far as the said provisions are not in any way inconsistent with the express provisions of this Act.

Bom LXVII of 1948.

Act not to apply to kauli lands.

20. Nothing in this Act shall apply to kauli lands which were held on kauli tenure in a khoti village but to which the Bombay Kauli and Katuban Tenures (Abolition) Act, 1953, applies.

Bom. XLIV of 1953.

Rules.

21. The State Government may, subject to the condition of previous publication, make rules for the purposes of carrying out the provisions of this Act. Such rules shall, when finally made, be published in the *Official Gazette*.

Repeal.

22. The Khoti Settlement Act, 1880, as applied to the merged territories of Janjira and the said Act as applied to the merged territories of Bhor are hereby repealed.

Bom. I of 1880.

SCHEDULE

(*See* section 2.)

(A) Khoti villages of the merged territories of Janjira :—

1. Borli.
2. Surai (Murud mahal).
3. Abitghar.
4. Kakalghar.
5. Chinchghar.
6. Bamnad.
7. Mahalung Budruk.
8. Salav.
9. Ambali.
10. Satirde.
11. Yesade.
12. Savroli.
13. Usadi.
14. Josranjan.
15. Belsai.
16. Undergaon.
17. Kharwaranwata.
18. Wawdungi.
19. Wande.
20. Maner.
21. Tembhode.
22. Kolmandle.
23. More.
24. Pale.
25. Araoghar.
26. Sarane.
27. Mhasla.
28. Sawar.
29. Tamhane Karambe.
30. Sakalap.
31. Khargaon Kd.
32. Bhabat.
33. Chali.
34. Kalsuri.
35. Khanloshi.
36. Adi Bhatachi.
37. Reoli.
38. Jambhul.
39. Tondsure.
40. Agarwada.
41. Pangloli.
42. Kudgaon (Mhasala mahal).
43. Pasti.
44. Varanat.
45. Neorul.
46. Kolwat.
47. Sangwad.
48. Rativne.
49. Kelte.
50. Khamgaon.
51. Kanghar.
52. Lep.
53. Vangani.
54. Vaghav.
55. Kudtudi.
56. Manjaravne.
57. Ghonse.
58. Shilim.
59. Wadghar (Mhasala mahal).
60. Dagadghoom.
61. Chichonde.
62. Kandalwada.
63. Khargaon Bdk.
64. Chirgaon.
65. Lahiwat.
66. Dhorje.
67. Surai (Mhasala mahal).
68. Dehen.
69. Talawade.
70. Toradi.
71. Adi Mahad Khadi.
72. Panave.
73. Kole.
74. Konzari.
75. Kokbal.
76. Thakroli.
77. Mandathane.
78. Tamhane Shrike.
79. Ambet.
80. Phalsap.
81. Khujare.
82. Wakalghar.
83. Asuf.
84. Bharadkhol.
85. Dandguri.
86. Vanjale.
87. Wave-Panchatan.
88. Deokhol.
89. Nagloli.
90. Hunarveli.
91. Shiravane.
92. Chikhlap.

93. Punir.
94. Maghare.
95. Bhardoli.
96. Bapoli.
97. Mamoli.
98. Guladhe.
99. Kondiwali.
100. Shekhadi.
101. Jasavali.
102. Wadghar (Shrivardhan mahal).
103. Sakhari.
104. Javele.
105. Sakharravane.
106. Kondhe.
107. Harwit.
108. Karje.
109. Kudki.
110. Mhasap.
111. Bhave.
112. Borli-Panchatan.
113. Nagaon.
114. Kondhe-Panchatan.
115. Savarde.
116. Karlas.
117. Kalinje.
118. Deoghar.
119. Maral.
120. Kurwade.
121. Saigaon.
122. Kherdi.
123. Arathi.
124. Karivne.
125. Nivale.
126. Dharavli.
127. Vave Tarf Shriwardhan.
128. Wadshet.

(B) Khoti villages in the merged terrtoreis of Bhor :—

1. Pali.
2. Ambole.
3. Khandpoli.
4. Amnori.
5. Wave.
6. Chive.
7. Padsare.
8. Ghotwade.
9. Kalamb.
10. Mulshi.
11. Mahagaon.
12. Aptawane.
13. Dahigaon.
14. Nadsur.
15. Nanose.
16. Nandgaon.
17. Gugulwada.
18. Potlaj Khd.
19. Harneri.
20. Bharje.
21. Wavloli.
22. Shidheshwar Khd.
23. Kalamboshi.
24. Chandargaon.
25. Padghavli.
26. Zap.
27. Kavele.
28. Tiware.
29. Kanhiwli.
30. Potlaj Bkd.
31. Waghoshi.